NOTES OF CASES.

FORGETFULNESS AS CONTRIBUTORY NEGLIGENCE—PETERS. V. CITY OF LYNCHBURG.—Our readers are requested to note that the case of *Peters* v. *City of Lynchburg*, decided by the Circuit Court of the City of Lynchburg and reported in our January number (p. 812), possesses not only the authority given it by the able judge who rendered the opinion, but has the additional authority imparted to it by reason of the fact that the case was taken to the Court of Appeals and a writ of error there refused. This fact adds to the authority of the case of *Courtney* v. *City of Richmond*, 32 Gratt. 792, and shows that the court intends to adhere to the very stringent rule laid down in that case. Another opinion which should be noted in this connection is *N. & W.* v. *Hawks*, 102 Va. 452, 455, in which the court said it makes do difference that the danger was not in the plaintiff's mind. Such thoughtlessness is negligence which cannot be charged to the defendant company.

NEGOTIABLE INSTRUMENTS—DEPOSIT OF DRAFT FOR COLLECTION—BANK ACQUIRES NO TITLE AND CANNOT RECOVER AGAINST ACCEPTORS—VA. CODE 1904, SEC. 2841A, ART. 4, SEC. 51.—In *Bank of America* v. *Waydell and Bagley*, decided March, 1905, the Appellate Division of the Supreme Court of New York held that where a draft was sent to agents for collection who were depositors of the plaintiff bank and deposited with the plaintiff solely for collection, the plaintiff having knowledge of the relation of their depositors to the draft, and plaintiff did not make advances or otherwise part with value upon the faith of the transaction, but afterwards assumed to apply the amount of the draft upon an indebtedness due to it from the depositors, the plaintiff had acquired no title to the draft and could not recover for the same against the acceptors (*Hutchinson* v. *Manhattan Co.*, 152 N. Y. 250; *Hatch* v. *National Bank*, 147 N. Y. 184, distinguished).

Sec. 51 of the Negotiable Instrument Law (Va. Code 1904, sec. 284la, Art. 4; sec. 51), providing that "the holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument" was held not to require a different ruling from that above.

LIBEL BY DICTATION TO STENOGRAPHER.—Are communications dictated to a stenographer, containing libelous matter, privileged? The use of stenographers in all business matters, including the most confidential communications by lawyers, makes this subject a most important one. It has undergone judicial consideration in two American cases, *Gambrill* v. *Schooley*, 93 Md. 48, and *Owen* v. *Ogilvie Pub. Co.*, 32 N. Y. App. Div. 465. In the former case the court held that the dictation of a libelous letter to a private and confidential stenographer was, in law, a libel-publication, when a typewritten copy was signed, made and sent to the addressee. In the latter case it was held that the dictation of a letter by the manager of a corporation to its stenographer is not a publication. The

basis of the ruling is that both manager and stenographer are in a common employment, and under such circumstances the stenographer is not to be regarded as a stranger, so as to create a publication in the sense of the law. The subsequent copying of the letter by another employee does not enlarge the publication, because the whole is but one act. If it could be said that there is a technical publication, it is certainly not an actual one, as understood in the law of libel. It is doubtful whether it will ever be held as American law that the dictation, stenographing and copying of a libelous letter will ever be established as a damaging libel, if done in the ordinary course of necessary business, and not to gratify private malice.—*The National Corporation Reporter.*

CONFLICT OF LAWS—ACTION ON A BOND IN ONE STATE FOR DEFICIENCY ARISING ON FORECLOSURE OF MORTGAGE COVERING LAND IN ANOTHER.—In *Stumphf* v *Hallahan and Ahern*, decided February, 1905, the Appellate Division of the Supreme Court of New York held that, in an action on a bond, made in New York to recover for a deficiency arising from the foreclosing of a mortgage covering lands in New Jersey, given to secure the bond, the law of New Jersey, regulating proceedings to recover on bonds and mortgages and the foreclosure and sale of property thereunder, governed, citing *Union Nat. Bank of Chicago* v. *Chapman*, 169 N. Y. 538; Story on Conflict of Laws, 8th ed., sec. 280.

EVIDENCE—PERSONAL INJURY—X-RAY PHOTOGRAPH OF INJURED CHEST ADMITTED.—In *C. & J. Elec. Ry. Co.* v. *Spence*, 213 Ill. 223, a skiograph or X-ray photo of a portion of an injured plaintiff's chest and body made by an expert, was introduced in an action for personal injuries. It was intended to show by the skiograph that the plaintiff's heart had been displaced, and that the walls of the organ had become thick, and that an abnormally heavy tissue had formed on the heart walls. The court held that such photographs are admissible in evidence after proper preliminary proof of their correctness and accuracy.

ACCIDENT INSURANCE—VOLUNTARY EXPOSURE TO UNNECESSARY DANGER.—In *Bateman* v. *Traveller's Ins. Co.*, decided by the St. Louis Court of Appeals in February, 1905 (85 S. W. 128), it was held that where one sent back, in the line of his duty, to flag a train, sits down on the track, and involuntarily goes to sleep, and while in such condition is struck by the train, the accident is not caused by his voluntary exposure to unnecessary danger, within the clause of an accident policy, exempting the insurer from liability for an accident resulting from such conduct on the part of insured, citing *Fidelity, etc. Co.* v. *Chambers*, 93 Va. 138; 24 S. E. 896, 40 L. R. A. 432; *Miller* v. *Ins. Co.*, 92 Tenn. 167; 21 S. W. 39, 20 L. R. A. 765; *Keene* v. *Assn.*, 161 Mass. 149, 36 N. E. 891; *Williams* v. *Assn.*, 82 Hun, 269, 31 N. Y. Supp. 343, and Id. 133 N. Y. 367, 31 N. E. 222.

BUILDING AND LOAN ASSOCIATIONS—INSOLVENCY—RIGHTS OF BORROWING MEMBERS—CONSOLIDATION.—In *Kentucky Citizens' Building & Loan Association* v. *Daugherty*, decided by the Court of Appeals of Kentucky in February, 1905 (84 S. W. 1179), it was held that a borrowing member of an insolvent building